Budget Process Proposals

The President's budget includes a number of provisions that, if enacted or enforced, would dramatically change Congressional consideration of budget-related legislation and that have serious long-term consequences for the budget. Following is an overview of the President's proposed changes.

Budget Enforcement for Entitlements that Ignores the Impact of Revenue Losses — The Administration proposes several rules addressing the impact of mandatory spending on the deficit and the long-term obligations of major entitlement programs. These rules, however, are short-sighted because the Administration does not address revenue enforcement and therefore ignores how tax cuts contribute to deficits. The proposed rules are summarized below.

- ***One-Sided PAYGO Rule*** — The Administration proposes a rule requiring that increases in mandatory spending be offset by mandatory cuts. The rule would be enforced through sequestration of mandatory programs. In actuality, the rule is a one-sided Pay-As-You-Go (PAYGO) provision that applies only to entitlements and ignores tax cuts.

  PAYGO provisions were adopted under the Budget Enforcement Act of 1990 (BEA) and expired in 2002. The BEA's PAYGO provisions required that tax cuts as well as increased mandatory spending be completely offset by either tax increases or by decreases in mandatory spending. PAYGO was enforced through sequestration of mandatory programs. The Administration's proposed rule guts PAYGO because it provides budgetary enforcement solely on the spending side, offsetting mandatory increases with mandatory cuts. Under the proposed rule, tax cuts would not have to be offset by tax increases or mandatory reductions. Additionally, mandatory increases could not be offset by tax increases.

  PAYGO rules under the BEA have been widely credited with helping to convert massive deficits into record surpluses during the 1990s. Unlike the PAYGO rule under the BEA, the proposed rule fails to recognize that fiscal discipline means constraints on both spending and tax cuts.

- ***Point of Order Against Expansions in Entitlement Programs*** **—** The budget proposes a point of order against legislation that expands major entitlement programs including Social Security, Medicare, federal civilian and military retirement, veterans disability compensation, and Supplemental Security Income. Other entitlement programs would be included once actuarial estimates are available for those programs.

- ***Reporting Requirements for Legislation Expanding Entitlements*** **—** The budget proposes a rule requiring the Administration to report on enacted legislation expanding certain entitlement programs.

- ***Automatic Cuts in Payments to Medicare Providers*** — The budget proposes a rule that would impose automatic cuts to Medicare once trustees issue a warning that general revenue Medicare funding is expected to exceed 45 percent of Medicare's total expenditures. Under the proposal, payments to providers would be cut by four-tenths of a percent in the year the threshold is exceeded and grow by four-tenths of a percent every year the threshold continues to be breached.

- ***Pay-As-You-Go Rules for Administrative Action Proposals*** — The budget also proposes an unprecedented rule that would require agencies to provide offsets for any administrative proposal that would increase mandatory spending.

Discretionary Spending Caps — Discretionary spending caps were first established under the BEA in 1990 to limit appropriations, with automatic adjustments for a few items such as emergencies. The caps were enforced through sequestration of non-exempt programs. The discretionary spending caps were extended twice and expired in 2002.

The Administration proposes to reinstate discretionary spending caps for years 2006 through 2011 at levels of appropriations in the President's budget. The budget proposes separate defense and non-defense caps for years 2006 through 2008 and merges the two categories for years 2009 through 2011. The budget creates a separate transportation category for years 2006 through 2009. The budget also proposes cap adjustments for certain program integrity initiatives that monitor payment and tax fraud. For a discussion of the effect of these caps, see *Appropriations Overview*.

Altered Baseline to Mask the Cost of the Administration's Tax Cuts — Baselines are budgetary projections that estimate federal spending, revenues, and deficits/surpluses for fiscal years based on enacted policies. The budget proposes that CBO and OMB assume in their baselines the extension of all tax cuts expiring under the Economic Growth and Tax Relief Reconciliation Act of 2001, and certain tax provisions expiring under the Jobs and Growth Tax Relief Reconciliation Act of 2003. Under current scoring rules, these tax provisions expire in the baseline at the time they expire in law. That is why CBO's ten-year baseline forecast shows the deficit eventually disappearing after the tax cuts expire in 2010. This proposal is problematic because it masks the budgetary impact of making these tax cuts permanent. Under this change, CBO and OMB would be required to show the cost of legislation to extend the tax cuts or to make them permanent as "zero." In reality, CBO estimates that extending the tax cuts and making them permanent would cost almost $1.7 trillion over the next decade.

Joint Budget Resolution — Under current law, the Congressional budget resolution is an annual concurrent budget resolution that does not go to the President for his signature. Instead, it is an internal document governing Congressional budget decisions. The budget proposes that Congress enact a joint budget resolution that would require the President's signature and be enforced by sequestration that would require across-the-board cuts to offset spending above the budget totals. Opponents of joint budget resolutions argue that this proposal skews negotiating power toward the Administration by allowing the President an opportunity to veto Congressional budget priorities. In addition, critics add that tax and spending bills might be delayed since enactment of the budget resolution would present such high political stakes. Additionally, the joint budget resolution could be used as a vehicle to enact non-budget related items.

Biennial Budgeting and Appropriations — The budget includes a proposal to adopt budgets and appropriations every two years, in odd-numbered years, with the even-numbered years devoted to enacting authorizing legislation. Under current law, Congress adopts a budget resolution and enacts appropriations on a yearly basis. Biennial budgeting proposals have been defeated with many arguing that Congressional oversight may be weakened if programs are appropriated half as often. In addition, constant and significant changes in budget estimates may cause policies to become outdated by the second year. Also, biennial budgeting may lead to even more supplemental funding, which is routinely held to less scrutiny. Since the current Administration has been in office, ten supplemental bills have been enacted under the current yearly budgeting process. Finally, it is ironic that this budget proposes biennial budgeting but includes account-level detail for only one year, not two years or the usual five or ten years covered by previous Administrations.

Line Item Veto — The Line Item Veto Act of 1996 gave the President authority to cancel new spending and limited tax benefits. The United States Supreme Court ruled the Act unconstitutional in 1998. The Administration proposes a constitutional line-item veto that would grant the President authority to rescind *new spending only,* not tax benefits. The savings from the cancelled spending would be applied to deficit reduction.

Automatic Continuing Resolution — The budget proposes an automatic continuing resolution to prevent a government shut-down if neither a regular appropriations measure nor a temporary continuing resolution is in place after a fiscal year has begun. The proposal would automatically fund programs at the *lower* of either the funding levels in the President's budget or the funding levels enacted the previous year. This proposal could encourage Members of Congress who favor spending cuts to oppose regular appropriations bills that include higher levels of funding.

Emergency Designations and Baselines — The discretionary spending caps, which expired in 2002, exempted emergency designations from their totals. The budget, which proposes to extend discretionary caps at levels set in the President's budget for years 2006 through 2011, also proposes to include provisions in the BEA that define emergencies. Under the proposal, both Congress and the President would have to agree that a spending item is "necessary, sudden, urgent, unforeseen, and not permanent" in order for that item to be exempt from budget totals.[1] The definition is designed to preclude Congress and the President from applying emergency

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[1] Analytical Perspectives of the 2007 Budget, p. 215

designations to domestic and natural disasters that total within the five-year average for such disasters, and to expected and on-going military and national security operations.

The budget also proposes that baselines, which estimate federal spending and revenues for a fiscal year based on enacted policies, exclude designated emergency spending. Under current guidelines, baselines include emergency spending in the budget year and years beyond. The proposal would provide that baselines include any designated emergency funding only for the year in which it is enacted.

Baseline Proposals for Expiring Housing Contracts and Social Insurance Administrative Expenses — The budget proposes to eliminate BEA sections that make adjustments in the baseline for expiring housing contracts and social insurance administrative expenses. This provision is particularly problematic in calculating funding for Section 8 housing programs. Under current law, the baseline for Section 8 housing is adjusted to reflect the costs of renewing expiring, multi-year subsidized housing contracts. Without this adjustment, the current services baseline estimate for the housing contract part of the program would be artificially low and would underestimate the amount of funding necessary to maintain the current level of services in the program.

Baseline Adjustment for Federal Pay Raises — The budget proposes that, since the effective date for federal pay raises occurs in January, the baseline not assume that pay raises take effect at the beginning of the fiscal year in October.

Results Commissions and Sunset Commission — The budget proposes that the President be granted authority to create various Results Commissions and a Sunset Commission. Results Commissions would examine ways to restructure and/or consolidate existing programs. Recommendations by the Commissions would be considered in Congress under expedited procedures. The Sunset Commission would consider whether to retain, restructure, or eliminate programs according to a schedule enacted by Congress. Programs would automatically terminate pursuant to the review process unless Congress took action to reauthorize them.

Advance Appropriations Cap — The budget proposes an advance appropriation cap for 2008 in the amount of $23.7 billion. The BioShield program would be exempted from the cap. The levels would be enforced by counting additional advance appropriations above the 2008 level against the discretionary caps in the year they are enacted.

The budget also proposes that, if an appropriations provision delays mandatory budget authority obligations, that not only would the first year be scored as a savings (since it is included in an appropriations act and reduces spending in that year), but that the second year impact would be treated as an advanced appropriation to be scored against the discretionary caps.

Project BioShield Category — The budget proposes to create a separate category of spending under the BEA – neither mandatory nor discretionary – to provide funding for BioShield to prevent reductions in the program and disallow its use as an offset.